

IN THE MATTER OF
THE APPLICATION OF
RICHARD KIM, ET UX
FOR SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE OF
LIBERTY ROAD, 312' SOUTH
OF CENTERLINE OF ESSEX ROAD
(7028 LIBERTY ROAD), FOR ONE
ILLUMINATED 12' x 25' ADVERTISING
STRUCTURE
2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 88-487-X

RULING ON PETITIONER'S MOTION
FOR RECONSIDERATION

The Board has received on May 9, 1989 a Motion for Reconsideration of the Board's Order in Case No. 88-487-X, Richard Kim, et ux. The Board had before it an appeal from a decision of the Zoning Commissioner denying the requested special exception. The Board, for reasons stated in its Opinion and Order, affirmed the Zoning Commissioner's Order.

In light of the events indicated in the Opinion, the Board is of the opinion that its actions were proper and therefore the Petitioner's Motion for Reconsideration is denied.

It is therefore this 9th day of May, 1989 ORDERED that the Motion for Reconsideration be and the same is DENIED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

May 9, 1989

Stuart R. Berger, Esquire
WEINBERG AND GREEN
100 S. Charles Street
Baltimore, MD 21201-2773

RE: Case No. 88-487-X
Richard Kim, et ux

Dear Mr. Berger:

Enclosed is a copy of the Board's Ruling on Petitioner's Motion for Reconsideration issued this date in the subject case.

Sincerely,

Kathleen C. Weldenhammer
Kathleen C. Weldenhammer
Administrative Secretary

Encl.

cc: Mr. & Mrs. Richard Kim
Penn Advertising of Baltimore Inc.
Ms. Judith Berger
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk - Zoning
Arnold Jablon, County Attorney

IN THE MATTER OF THE
APPLICATION OF RICHARD KIM,
ET UX FOR PETITION FOR
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE
OF LIBERTY ROAD, 312' SOUTH
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2ND ELECTION DISTRICT
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BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
Case No. 88-487-X

OPINION

This case comes before this Board on appeal from a decision of the Zoning Commissioner denying the requested special exception.

This case was set for Hearing at 1:00 p.m. on April 12, 1989. As indicated on the record in this case, at 1:27 p.m. on April 12, 1989, the Board dismissed the appeal for lack of appearance since neither Petitioner nor his attorney was present at that time. As furtherance of the decision rendered above, the record will indicate that Petitioner's attorney contacted the Board Chairman on April 11, 1989 and indicated that he did not intend to pursue the Petition and wished it withdrawn.

ORDER

It is therefore this 13th day of April, 1989 by the County Board of Appeals of Baltimore County ORDERED that the Zoning Commissioner's Order denying the requested special exception be AFFIRMED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

April 13, 1989

Stuart R. Berger, Esquire
100 S. Charles Street
Equitable Tower II Building
Baltimore, Maryland 21201-3060

Re: Richard Kim, et ux
Case No. 88-487-X

Dear Mr. Berger:

Enclosed please find a copy of the Opinion and Order issued this date by the County Board of Appeals in the subject case.

Sincerely,

Linda Lee M. Kusmaul
LindaLee M. Kusmaul
Legal Secretary

Enclosure

cc: Mr. and Mrs. Richard Kim
Mr. Freedman
Ms. Judith Berger
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk
Arnold Jablon, County Attorney

0366:05/08/89(2)
AQF39

IN THE MATTER OF THE
APPLICATION OF RICHARD KIM,
ET UX FOR PETITION FOR
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE
OF LIBERTY ROAD, 312' SOUTH
OF CENTERLINE OF ESSEX ROAD
(7028 LIBERTY ROAD), FOR ONE
ILLUMINATED 12' x 25' ADVERTISING
STRUCTURE
2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
Case No. 88-487-X

PETITIONERS' MOTION FOR RECONSIDERATION

The Petitioners, Richard Kim, et al., by their undersigned counsel, pursuant to Rule 10 of the Rules of Practice and Procedure of County Board of Appeals, hereby move the County Board of Appeals of Baltimore County to exercise its revisory power and control over the decision entered in this case on April 13, 1989, and in support thereof state as follows:

1. This case was scheduled for a hearing by the County Board of Appeals of Baltimore County for April 12, 1989. Counsel for the Petitioners attempted to contact one of the Petitioners, Richard Kim, to advise him of the April 12, 1989 hearing date. After informing the remaining Petitioner, Penn Advertising of Baltimore, of his unsuccessful attempt to contact Mr. Kim, Penn Advertising elected to withdraw the appeal on April 11, 1989. The decision to withdraw the appeal was made in lieu of seeking an eleventh hour postponement of the April 12, 1989 hearing date. On April 11, 1989, Stuart R.

0366:05/08/89(2)
AQF39

Berger, counsel for the Petitioners, contacted the Chairman of the Baltimore County Board of Appeals, William T. MacKett, to advise the Board that he was withdrawing the Petition on behalf of the Petitioners.

2. However, on April 13, 1989, the County Board of Appeals of Baltimore County issued an Opinion and ordered "that the Zoning Commissioner's order denying the requested special exception be AFFIRMED." The Petitioner respectfully requests that the County Board of Appeals of Baltimore County reconsider its April 13, 1989 Order. Rule 10 of the Rules of Practice and Procedure of County Board of Appeals provides that:

Within thirty days after the entry of an order, the board shall have revisory power and control over the order IN THE EVENT OF FRAUD, MISTAKE OR IRREGULARITY.

[Emphasis in original.]

4. The Petitioner submits that a jurisdictional mistake would exist if the Opinion and Order of the County Board of Appeals were permitted to stand. In the case at bar, the County Board of Appeals was divested of jurisdiction to decide this case when Mr. Berger advised Mr. Hackett on the day before the hearing that the Petitioner was withdrawing the appeal. Indeed, the Opinion and Order of the Board is further testament to the foregoing. The Opinion provides, in pertinent part that:

The record will indicate that Petitioner's attorney contacted the Board Chairman on April 11, 1989 and indicated that he did not

0366:05/08/89(2)
AQF39

intend to pursue the Petition and wished it withdrawn.

5. Accordingly, the Board was divested of jurisdiction, and therefore, it did not possess the jurisdiction to issue its April 13, 1989 Order.

WHEREFORE, for the foregoing reasons as more fully set forth in the Memorandum in Support of Petitioners' Motion for Reconsideration, the Petitioner respectfully requests that the Baltimore County Board of Appeals reconsider its April 13, 1989 Order, and prays that the County Board of Appeals enter an Order dismissing the above-captioned appeal.

Respectfully submitted,

Stuart R. Berger
Stuart R. Berger

Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8662

0366:05/08/89
AQF34

IN THE MATTER OF THE
APPLICATION OF RICHARD KIM,
ET UX FOR PETITION FOR
SPECIAL EXCEPTION ON PROPERTY
LOCATED ON THE NORTHEAST SIDE
OF LIBERTY ROAD, 312' SOUTH
OF CENTERLINE OF ESSEX ROAD
(7028 LIBERTY ROAD), FOR ONE
ILLUMINATED 12' x 25' ADVERTISING
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2ND ELECTION DISTRICT
2ND COUNCILMANIC DISTRICT

BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
Case No. 88-487-X

MEMORANDUM IN SUPPORT OF PETITIONERS'
MOTION FOR RECONSIDERATION

The Petitioners, Richard Kim, et al. ("Petitioners") submit this memorandum in support of their Motion for Reconsideration.

Rule 10 of the Rules of Practice and Procedure of County Board of Appeals provides that:

Within thirty days after the entry of an order, the board shall have revisory power and control over the order IN THE EVENT OF FRAUD, MISTAKE OR IRREGULARITY.

Further, it is well settled that an administrative agency exercising judicial or quasi-judicial functions has the right to correct errors in its decision caused by fraud, surprise, mistake of inadvertence. *Zoning Appeals Board v. McKinney*, 174 Md. 551, 564 (1938). The Petitioners submits that the Baltimore County Board of Appeals was divested of jurisdiction to decide the case at issue when it issued an Opinion and Order two days after the Petitioners' attorney withdrew the appeal. As such, the Board of Appeals committed a

jurisdictional mistake when it ordered "that the Zoning Commissioner's order denying the requested special exception be AFFIRMED".

A similar rule of procedure exists with respect to the revisory power of courts of general jurisdiction. Maryland Rule of Procedure 2-535(b) provides that "[o]n motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake or irregularity." In those cases permitting a judgment to be set aside on the basis of a mistake, the mistake must be confined to those instances where here is jurisdictional mistake involved. See Hamilos v. Hamilos, 52 Md. App. 488, 497-98 (1982), aff'd, 297 Md. 29 (1983). In Miles v. Hamilton, 265 Md. 708 (1973), the Defendant sought to set aside the judgment on the basis that the court did not possess jurisdiction over him. The Miles Court held that because the Defendant was not properly served, the Circuit Court "had no jurisdiction and its judgment would be invalid and without significance." Id. at 713.

Similarly, an administrative agency that is divested of jurisdiction is not empowered to issue a decision effecting the rights of the parties when no issue is before the administrative agency. In the case at bar, the Petitioner withdrew the appeal pending before the Baltimore County Board of Appeals on April 11, 1989. Accordingly, the Petitioner submits that the Board of Appeals committed a jurisdictional mistake when it rendered its April 13, 1989 Opinion and Order.

- 2 -

WHEREFORE, because this case involves a mistake pursuant to Rule 10 of the Rules of Practice and Procedure of County Board of Appeals, the Petitioners respectfully request that the Baltimore County Board of Appeals reconsider its April 13, 1989 Order and enter an Order dismissing the above-referenced appeal.

Respectfully submitted,

Stuart R. Berger
Stuart R. Berger

Weinberg and Green
100 South Charles Street
Baltimore, Maryland 21201
(301) 332-8562

- 3 -

IN RE: PETITION FOR SPECIAL EXCEPTION
NE/S Liberty Road, 312' S of c/l Essex Road (7028 Liberty Rd) 2nd Election District 2nd Councilmanic District
Richard Kim, Et Ux Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE #88-487X

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Petitioner requests approval of a Special Exception to use the herein described property for one (1) illuminated 12' x 25' outdoor advertising (sign) structure, as more particularly described on Petitioners' Exhibits 1 and 1A.

The Petitioner, Penn Advertising of Baltimore, Inc., appeared by their agent, Mr. Freedman, and were represented by Stuart R. Berger, Esquire. The Petitioner, Richard Kim, did not appear. There was one Protestant, Mrs. Judith Berger, representing Lochearn Improvement Association.

The subject request is for an outdoor advertising sign as defined in Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.) in the B.R. zone on the subject site shown on Petitioner's Exhibits 1 and 1A.

The current 1987 edition of the B.C.Z.R. list the following regulations for outdoor advertising signs:

"413.3--Outdoor advertising signs as defined in Section 101 are allowed only in B.L., B.M. M.L., and M.H. zones as Special Exceptions, under the following conditions, as limited by Section 413.5: (B.C.Z.R., 1955)".

ORDER RECEIVED FOR FILING
Date 10/10/89
By Mr. Haines

This language contains no reference to the B.R. zone. Clearly, the regulations do not permit outdoor advertising signs in this zone.

The Petitioner cites Metromedia Inc., v. Baltimore County, Maryland, et al in the Circuit Court for Baltimore County, Equity No. 103167 as support for allowing such signs in the B.R. by special exception.

I have read that opinion and I do not believe it is controlling in the subject case. First, and foremost, the facts in Metromedia are unknown and, therefore, there is no way to square the two cases when the facts of one case are unknown. Second, the Petitioners had no interest in the subject site when either the 1957 or 1963 republished versions of the regulations were in effect. Clearly, the Petitioner's interest in the subject lot arose after the current zoning regulations were in effect and the Petitioners have suffered nothing as a result of the correct legally enacted legislation being enforced.

I find no controlling precedent in Metromedia, Inc. and no right to obtain an outdoor advertising sign in the B.R. zone. The B.C.Z.R. do not provide for such a use and I will not read into the law what the Baltimore County Council did not enact. Furthermore, this is not a special hearing case and, therefore, is not a request for an interpretation of the regulations concerning the B.R. zone.

Pursuant to the advertisement, posting of the property, and public hearing held, and for the reasons given above, the requested Special Exception should be denied.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner of Baltimore County, Maryland, this 10th day of October, 1988 that the

-2-

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 88-487-X

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for one (1) illuminated 12' x 25' advertising (sign) structure.

Property is to be posted and advertised as prescribed by Zoning Regulations.

We, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.

Contract ~~XXXXXXX~~ Lessee:

Penn Advertising of Baltimore, Inc.

(Type or Print Name)

Signature

3001 Remington Avenue

Address

Baltimore, Maryland 21211

City and State

Attorney for Petitioner:

Stuart R. Berger, esq.

(Type or Print Name)

Signature

36 South Charles Street

Address

Baltimore, Maryland 21201

City and State

Attorney's Telephone No.: (301) 332-8562

Legal Owner(s):

Richard Kim

(Type or Print Name)

Signature

Jane Kim

(Type or Print Name)

Signature

1204 Dulaney Woods Road

Address

Cockeysville, Maryland 21030

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of MARCH 89

that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 10th day of JUNE 1989, at 10 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
Date 10/10/89
By Mr. Haines

KCO-No. 1

(over)

Petition for Special Exception for one (1) illuminated 12 foot by 25 foot outdoor advertising sign and structure, pursuant to Section 413.3 of the B.C.Z.R., on a B.R. zoned site, described on Petitioners' Exhibits 1 and 1A be and the same is hereby DENIED.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
OF BALTIMORE COUNTY

JRH:mmm
cc: Peoples Counsel
Stuart R. Berger, Esquire
Mr. and Mrs. Richard Kim
Mrs. Judith Berger, Lochearn Improvement Association

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

October 7, 1988



Dennis F. Rasmussen
County Executive

Stuart R. Berger, Esquire
36 South Charles Street
Baltimore, Maryland 21201

RE: Petition for Special Exception
Case No. 88-487X
Richard Kim, et ux, Petitioners

Dear Mr. Berger:

Enclosed please find the decision rendered on the above captioned case. The Petition for Special Exception is denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm
att.
cc: Peoples Counsel
Mrs. Judith Berger, Lochearn Improvement Association

-3-

Sign Location - 7028 LIBERTY ROAD
BEGINNING AT A POINT LOCATED ON THE NORTH SIDE OF LIBERTY ROAD (80 FEET WIDE), 436 FEET FROM THE CENTERLINE OF ESSEX ROAD (50 FEET WIDE) AND 76 FEET FROM THE CENTERLINE OF LIBERTY ROAD AND THENCE RUNNING THE FOLLOWING COURSES AND DISTANCES: 1) NORTHERLY A DISTANCE OF 30 FEET TO A POINT, THENCE 2) EASTERLY AND AT A RIGHT ANGLE A DISTANCE OF 10 FEET TO A POINT, THENCE 3) SOUTHERLY AND AT A RIGHT ANGLE A DISTANCE OF 30 FEET TO A POINT, THENCE 4) WESTERLY AND AT A RIGHT ANGLE A DISTANCE OF 10 FEET TO THE BEGINNING.

Property Description

Beginning at a point on the northeast side of Liberty Road at a distance of 312 ft. from the centerline of Essex Road thence running northeasterly 253 ft. thence running east a distance of 417 ft. thence running south west a distance of 422.5 ft. to a point on the east side of Liberty Road at a point 410 ft. east of the centerline of Essex Rd. thence running west a distance of 92 ft. to the point of beginning.

ORDER RECEIVED FOR FILING
Date 10/10/89
By Mr. Haines

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: June 21 - 88
Posted for: Special Exception
Petitioner: Richard Kim et ux
Location of property: N.E. side of Liberty Road, 312' S of c/l Essex Road
(7028 Liberty Road)
Location of Signs: East front of 7028 Liberty Road
Remarks: Posted 2nd time on August 15 - 88 for new hearing of 7-7-88
Posted by: J.R. Haines Date of return: June 24 - 88
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 2nd Date of Posting: 12-7-85
Posted for: Appeal
Petitioner: Richard Kim et ux
Location of property: N.E. side of Liberty Road, 312' S of
Essex Road (7028 Liberty Road)
Location of Signs: East front of 7028 Liberty Road
Remarks:
Posted by: J.R. Haines Date of return: 12-9-88
Number of Signs: 1

"DUPLICATE"
CERTIFICATE OF PUBLICATION

TOWSON, MD., June 23, 1988
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on June 23, 1988
THE JEFFERSONIAN,
S. Zetke Orlum
Publisher
33.75

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
Petition for Special Exception
Case number: 88-487-X
NES Liberty Road, 312' S of c/l Essex Road (7028 Liberty Road)
2nd Election District
Petitioner(s): Richard Kim, et ux
Hearing Date: Wednesday, July 13, 1988 at 9:00 a.m.
Special Exception One (1) illuminated 12' x 25' advertising (sign) structure.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
6015 June 23.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353
J. Robert Haines
Zoning Commissioner

Date: _____

Penn Advertising of Baltimore, Inc.
3001 Remington Avenue
Baltimore, Maryland 21211



Dennis F. Rasmussen
County Executive

Re: Petition for Special Exception
CASE NUMBER: 88-487-X
NES Liberty Road, 312' S of c/l Essex Road
(7028 Liberty Road)
2nd Election District - 2nd Councilmanic
Petitioner(s): Richard Kim, et ux
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 7, 1988 at 9:00 a.m.

Gentlemen:

Please be advised that \$197.50 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of Baltimore County

JRH:gs
cc: Stuart R. Berger, Esq.

*Includes Newspapers advertising, posting and re-posting.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 79245
DATE 7/7/88 ACCOUNT R-01-615-000
AMOUNT \$ 97.50
RECEIVED FROM Penn Advertising of Baltimore, Inc.
FOR Advertising 7/7/88
B 88-487-X
VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 059800
DATE 10-25-85 ACCOUNT 001-006-6150
AMOUNT \$ 115.00
RECEIVED FROM STUART R. BERGER (H-20-880)
FOR APPEAL FILING - CASE # 88-187-X
RICHARD KIM - PETITIONER
B 88-487-X
VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: _____



Dennis F. Rasmussen
County Executive

Re: Petition for Special Exception
CASE NUMBER: 88-487-X
NES Liberty Road, 312' S of c/l Essex Road
(7028 Liberty Road)
2nd Election District - 2nd Councilmanic
Petitioner(s): Richard Kim, et ux
HEARING SCHEDULED: FRIDAY, JUNE 10, 1988 at 10:00 a.m.

Gentlemen:

Please be advised that _____ is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of Baltimore County

JRH:gs
cc: Stuart R. Berger, Esq.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

June 10, 1988

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Exception
CASE NUMBER: 88-487-X
NES Liberty Road, 312' S of c/l Essex Road
(7028 Liberty Road)
2nd Election District - 2nd Councilmanic
Petitioner(s): Richard Kim, et ux
HEARING SCHEDULED: FRIDAY, JUNE 10, 1988 at 10:00 a.m.

Special Exception One (1) illuminated 12' x 25' advertising (sign) structure.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
cc: Richard Kim, et ux
Penn Advertising of Baltimore, Inc.
Stuart R. Berger, Esq.
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

May 25, 1988

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Exception
CASE NUMBER: 88-487-X
NES Liberty Road, 312' S of c/l Essex Road
(7028 Liberty Road)
2nd Election District - 2nd Councilmanic
Petitioner(s): Richard Kim, et ux
HEARING SCHEDULED: WEDNESDAY, JULY 13, 1988 at 9:00 a.m.

Special Exceptions: One (1) illuminated 12' x 25' advertising (sign) structure.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County

cc: Penn Advertising of Baltimore, Inc.
Stuart R. Berger, Esq.
Richard Kim, et ux
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

July 1, 1988

NOTICE OF POSTPONEMENT



Dennis F. Rasmussen
County Executive

This will acknowledge receipt of the postponement request from () Petitioner(s), () Protestant(s), and/or (X) the Attorney for Petitioner or Protestant.

As such, the following case originally scheduled for July 13, 1988

will not proceed on that date. You will be timely notified of the new hearing date.

Case number: 88-486-X and 88-487-X
Petitioner(s): Malvin Kabik Richard Kim
Location: 8500 Frederick Rd 7028 Liberty Road
Lessee: Penn Advertising of Baltimore, Inc.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner for Baltimore County

cc: Stuart R. Berger, Esq.
Malvin Kabik, et ux
Richard Kim, et ux
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

July 14, 1988

NOTICE OF HEARING

(NO POSTPONEMENT FROM THIS DATE WILL BE GRANTED)

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Exception
NE/S Liberty Road, 312' S of c/l Essex Road
(7028 Liberty Road)
2nd Election District - 2nd Councilmanic
Petitioner(s): Richard Kim, et ux
Lessee: Penn Advertising of Baltimore, Inc.
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 7, 1988 at 9:00 a.m.

Special Exceptions: One (1) illuminated 12' x 25' advertising (sign) structure.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 24, 1988

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Stuart R. Berger, Esquire
36 South Charles Street
Baltimore, Maryland 21201

RE: Item No. 340 - Case No. 88-487-X
Petitioner: Richard Kim, et ux
Petition for Special Exception

Dear Mr. Berger:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures



Maryland Department of Transportation State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

March 30, 1988

RE: Baltimore County
Richard Kim Property
Zoning Meeting 3/29/88
N/E/S Liberty Road
Maryland Route 26
312' south of the
centerline of Essex Road
Item #340

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Att: James Dyer

Dear Mr. Haines:

After reviewing the submittal for a special exception for one (1) illuminated 12' x 25' advertising (sign) structure, the State Highway Administration-Bureau of Engineering Access Permits has the following comments.

The submittal for variance of a business sign has been forwarded to the State Highway Administration-Beautification Section, C/O Morris Stein (333-1642), for all comments relative to zoning.

If you have any questions, contact Larry Brocato of this office (333-1350).

Very truly yours,

Creston J. Mills, Jr.
Creston J. Mills, Jr.
Acting Chief-Bureau of
Engineering Access Permits

LB/es

cc: J. Ogle
Morris Stein w/att.

RECEIVED
APR 4 1988

ZONING OFFICE

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 865-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reineke
Chief

April 5, 1988

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Dennis F. Rasmussen
County Executive

Re: Property Owner: Richard Kim, et ux

Location: NE/S Liberty Rd., 312' S of c/l Essex Rd.

Item No.: 340 Zoning Agenda: Meeting of 3/29/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "M" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

(x) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neil* Noted and Approved: *John F. O'Neil*
Planning Office Fire Prevention Bureau
Special Inspection Division

/j1

88-487-X

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
30th day of March, 1988.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: Richard Kim, et ux
Petitioner's Attorney: Stuart R. Berger

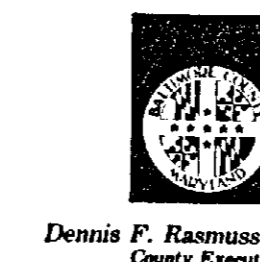
Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

944-7812
761-7070

July 8, 1988



Dennis F. Rasmussen
County Executive

Mrs. Judith Berger
Zoning Chairperson
Lochearn Improvement Association
3801 Lochearn Drive
Baltimore, Maryland 21207

RE: Case #88-487-A
7028 Liberty Road

Dear Mrs. Berger:

Thank you for your letter of July 5, 1988 concerning zoning matter 88-487-A. This case was set in for hearing on July 13th, but was requested to be postponed and rescheduled at a later date. When same is reset again, we will be more than happy to notify you of the new date and would suggest you attend.

You have alleged certain violations concerning sign regulations in reference to property known as 7028 Liberty Road. I have assigned Mr. Jeffrey Long to investigate this matter and he will attempt to contact you at the Lochearn Improvement Association. I would appreciate it if you would call him during the week of July 18 through the 22nd, since your telephone number is not available on your letterhead. Mr. Long can be reached at 494-3351.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm
bec. Jeff Long

BALTIMORE COUNTY, MARYLAND Inter-Office Correspondence

TO: Gwen Stephens /Zoning Office DATE: August 28, 1991

FROM: Kathi Weidenhammer /Bd of Appeals

SUBJECT: Files Returned from Circuit Court /
Case No. 88-486-X /Kabik and No. 88-487-X /Kim

Gwen:

The attached two files were returned by the Circuit Court for Baltimore County. Both of these cases had been appealed to the Circuit Court, decisions rendered, and the files closed by this office some time ago. These files were inadvertently forwarded by the Circuit Court to People's Counsel as belonging to them and subsequently returned to this office by Shirley.

On November 13, 1989, Case No. 88-487-X (Richard Kim, et ux) was closed and the Board's copy of this file returned to the Zoning Office. Also, on January 23, 1990, Case No. 88-486-X (Melvin Kabik, et ux) was closed and our copy of the file returned to Zoning.

Should you have any questions, please call me at extension 3180.

Kathi *Kathi*
Attachments (2)

November 22, 1988

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Exception
NE/S Liberty Road, 312' S of c/1 Essex Road
(7028 Liberty Road)
2nd Election District, 2nd Councilmanic District
RICHARD KIM, ET UX - Petitioner
Case No. 88-487-X

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on October 24, 1988 by Stuart R. Berger, Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. Richard Kim
1204 Dulany Woods Road, Cockeysville, Md. 21030

Stuart R. Berger, 36 South Charles Street, Balto., Md. 21201-3060

Mr. Freedman, Penn Advertising of Baltimore, Inc.
3001 Remington Avenue, Baltimore, Md. 21211

Ms. Judith Berger, Lochearn Improvement Association
3801 Lochearn Drive, Baltimore, Md. 21207

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204



APPEAL

Petition for Special Exception
NE/S Liberty Road, 312' S of c/1 Essex Road
(7028 Liberty Road)
2nd Election District - 2nd Councilmanic District
RICHARD KIM, ET UX - Petitioner
Case No. 88-487-X

Petition for Special Exception

Description of Property

Certificate of Posting

Certificate of Publication

Notice of Postponement

Entry of Appearance of People's Counsel (None Submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (None Submitted)

Petitioner's Exhibits: 1. & 1A. Drawings to accompany Petition

2. Copy of sign regulations from BCZR

3. Copy of Memorandum Opinion

4. Two Polaroid photographs of sign location

Zoning Commissioner's Order dated October 10, 1988 (Denied)

Notice of Appeal received October 24, 1988 from Stuart R. Berger,
Attorney on behalf of Petitioners

cc: Mr. & Mrs. Richard Kim
1204 Dulany Woods Road, Cockeysville, Md. 21030

Stuart R. Berger, 36 South Charles Street, Balto., Md. 21201-3060

Mr. Freedman, Penn Advertising of Baltimore, Inc.
3001 Remington Avenue, Baltimore, Md. 21211

Ms. Judith Berger, Lochearn Improvement Association
3801 Lochearn Drive, Baltimore, Md. 21207

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM --
Room 301, County Office Building

APPEAL HEARINGS SCHEDULED FOR
THE WEEK OF APRIL 10, 1989

TUESDAY 4/11/89 10:00 a.m.

YVONNE COURT

#CBA-89-107

NW/s Wilker Avenue, W of
Hoerner Avenue
9th E; 6th C

RE: CRG Decision

WEDNESDAY 4/12/89 10:00 a.m.

#88-486-X

NE/cor Frederick Road
and Prospect Avenue
(6500 Frederick Road)
1st E; 1st C

SE - Illuminated sign

WEDNESDAY 4/12/89 1:00 p.m.

RICHARD KIM, ET UX

NE/s Liberty Road, 312'
S of c/1 Essex Road
(7028 Liberty Road)
2nd E; 2nd C

SE - Illuminated sign

THURSDAY 4/13/89 HEARING ROOM NOT AVAILABLE FOR CBA HEARING

cc: Executive Office
County Council
Law Office
People's Counsel
Planning Office
Current Planning
Board Members
Court Reporter
Information Desks (3)
Docket Clerk - Zoning



1/23/89 - Following notified of hearing set for Wednesday, April 12, 1989 at 1:00 p.m.

S. Berger, Esq.
M/M R. Kim
Penn Adv. of Balto
J. Berger
PC
D. Fields
P. Keller
J. R. Haines
A. Nastarowicz
J. Dyer
Docket Clerk - Zoning
A. Jablon, Esq.

Form C44

Irene Summers - 887-2660
Civil Assignment Commissioner

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING

401 Bosley Avenue

P.O. Box 6754

Towson, Maryland 21285-6754

June 14, 1989

Kathy Rushton - 887-2660

Jury Assignments - Civil
General Settlement Conferences

Tina Campbell - 887-2661

Non-Jury Assignments - Civil
Special Settlement Conferences

TO:

M. Albert Figinski, Esq.
Stuart R. Berger, Esq.

Phyllis Cole Friedman, Esq.
Peter Max Zimmerman, Esq.

County Board of Appeals

RE: Non-Jury 89-CG-1672 Richard Kim et ux vs. Balto. Co. Bd of Appeals

HEARING DATE: Tuesday, October 3, 1989, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 1 hour

Please see the below notations.

UPON RECEIPT OF THIS NOTICE Counsel shall contact each other immediately to conform calendar. Claim of not receiving notice will not constitute reason for postponement.

SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS MUST BE MADE IN WRITING TO THE ASSIGNMENT OFFICE AS SOON AS POSSIBLE. POSTPONEMENTS PRIOR TO 20 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 20 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3407.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

RECEIVED
COUNTY BOARD OF APPEALS
68 JUN 15 PM 4:15

IN THE MATTER OF THE APPLICATION
OF RICHARD KIM, ET UX FOR SPECIAL
EXCEPTION ON PROPERTY LOCATED ON
THE NORTHEAST SIDE OF LIBERTY
ROAD, 312' SOUTH OF THE C/1 OF ESSEX
ROAD (7028 LIBERTY ROAD)
2nd Election District
2nd Councilmanic District
RICHARD KIM, ET UX, PLAINTIFFS
ZONING FILE NO. 88-487-X

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY

CG Doc. No. 68

Folio No. 72

File No. 89-CG-1672

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND

THE BOARD OF APPEALS FOR BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William H. Hackett, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against him in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

No. 88-487-X ENTRIES FROM DOCKET OF BOARD OF APPEALS OF BALTIMORE COUNTY

March 30, 1988 Petition of Richard Kim for a special exception for one (1) illuminated 12' x 25' advertising (sign) structure.

May 24, 1988 Comments of Baltimore County Zoning Plans Advisory Committee filed.

June 21, 1988 Certificate of Posting of property - filed.

June 23, 1988 Publication in newspaper - filed.

July 13, 1988 At 9:00 a.m. hearing held on Petition by the Zoning Commissioner.

October 10, 1988 Order of the Zoning Commissioner that the Petition for Special Exception for one illuminated 12' x 25' advertising (sign) structure be DENIED.

October 24, 1988 Notice of Appeal received from Stuart R. Berger, Esquire on behalf of Petitioner.

April 12, 1989 Hearing on appeal before the Board of Appeals (Dismissed at Hearing due to lack of appearance by Petitioner).

Richard Kim, et ux
Case No. 88-487-X, File No. 89-CG-1672

April 13, 1989 Opinion and Order of the Board dismissing the appeal for lack of appearance and ordering that "the Zoning Commissioner's Order denying the requested special exception be AFFIRMED".

May 11, 1989 Order for Appeal filed in the Circuit Court for Baltimore County by Stuart R. Berger, Esquire on behalf of Plaintiff.

May 11, 1989 Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County

May 16, 1989 Certificate of Notice sent to all interested parties.

June 12, 1989 Transcript of testimony filed.

Since there was no evidence or testimony taken there are no exhibits in this case.

June 12, 1989 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court.

Respectfully submitted,

Linda Lee M. Kuszmaul
Linda Lee M. Kuszmaul
County Board of Appeals of Baltimore County

cc: Stuart R. Berger, Esquire
Ms. Judith Berger
Arnold Jablon, County Attorney



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

HEARING ROOM -
Room 301, County Office Building

January 23, 1989
NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 88-487-X

RICHARD KIM, ET UX

NE/s Liberty Road, 312' S of c/1 Essex road
(7028 Liberty Road)

2nd Election District
2nd Councilmanic District

SE -One illuminated 12' x 25' advertising
sign structure.

10/10/88 -Z.C.'s Order that special exception
is DENIED.

ASSIGNED FOR: WEDNESDAY, APRIL 12, 1989 at 1:00 p.m.

cc: Stuart R. Berger, Esquire Counsel for Appellants /Petitioners
Mr. & Mrs. Richard Kim Appellants /Petitioners
Penn Advertising of Balto., Inc.

Ms. Judith Berger
Lochearn Improvement Assn.

People's Counsel for Balto. County - out per Shirley Hess 4/13/89

P. David Fields
Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

Docket Clerk -Zoning

Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Secretary

Office of Planning & Zoning
Towson, Maryland 21204

Re: 88-486-X and 88-487-X
Copy of September 7, 1988 Hearing Notice
mailed to Petitioners, Attorney Berger,
and to the following:

Mr. James Balley
3801 Lochearn Drive
Cockeysville, Maryland 21226

Liberty Communities Development Corp.
3810 Pasadena Road
Randallstown, Maryland 21122

Ms. Judith Berger
Lochearn Improvement Association
3801 Lochearn Drive
Baltimore, Maryland 21207

Mr. George T. Deason
Maryland Department of Transportation
State Highway Administration
2323 W. Johns Road
Brooklandville, Maryland 21222

Ms. Susan Thornton
Patent Publishing Company
817 Midway Circle, Suite 220
Baltimore, Maryland 21226

Mr. Dick Johnson
82 Brimmer Road
Crownsville, Maryland 21228

Photocopies of actual mailing envelopes

WEINBERG AND GREEN

ATTORNEYS AT LAW
100 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201-2773
(301) 332-8600
WASHINGTON AREA: 470-7400
TELECOPIERS
(301) 332-8882
(301) 332-8883
FAX NUMBER
120-12 WEST PATRICK STREET
FREDERICK, MARYLAND 21701-8813
(301) 895-9800
ROCKVILLE (301) 831-4203
WRITER'S DIRECT DIAL NUMBER
(301) 332-8662

May 8, 1989

VIA HAND DELIVERY

County Board of Appeals of
Baltimore County
County Office Building, Room 315
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Richard Kim, et ux
Case No. 88-487-X

Gentlemen:
Please accept for filing in the above-captioned case the
enclosed Petitioner's Motion for Reconsideration.

I am also enclosing two copies of the Petition for filing.
Thank you for your assistance in this matter.

Very truly yours,
Stuart R. Berger
Stuart R. Berger

Enclosures
0366/ae
0283p

12:45 PM 6-14-89
RECEIVED
COUNTY BOARD OF APPEALS

MELNICOVE, KAUFMAN, WEINER, SMOUSE & GARBS, P. A.

LAW OFFICES OF
36 SOUTH CHARLES STREET
SIXTH FLOOR
BALTIMORE, MARYLAND 21201-3060
(301) 332-8800
(410) 774-8088
(410) 282-8888
(410) 282-1410
WRITER'S DIRECT DIAL NO. 1
(301) 332-8562
June 24, 1988

Ms. Gwendolyn Stevens
County Office Building
Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petitions for Special Exceptions
Case Nos. 88-486-X and 88-487-X

Dear Ms. Stevens:

Confirming our conversation today, I requested a postponement
of the hearings on the above-referenced Special Exceptions presently
scheduled for July 13, 1988. In view of the conflict with my client's
schedule, we would truly appreciate your rescheduling the hearings for
as soon after July 13, 1988 as possible.

Thank you for your courtesy and cooperation with regard to this
matter.

Very truly yours,
Stuart R. Berger
Stuart R. Berger

SRB/cp
cc: Mr. Barry Freedman

RECEIVED
JUN 24 1988
ZONING OFFICE

MELNICOVE, KAUFMAN, WEINER, SMOUSE & GARBS, P. A.

LAW OFFICES OF
36 SOUTH CHARLES STREET
SIXTH FLOOR
BALTIMORE, MARYLAND 21201-3060
(301) 332-8800
(410) 774-8088
(410) 282-8888
(410) 282-1410
WRITER'S DIRECT DIAL NO. 1
(301) 332-8562
October 25, 1988

HAND DELIVERED

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Re: Petition for Special Exception
Case No.: 88-487X
Richard Kim, et al, Petitioners

Dear Commissioner Haines:

On behalf of the Petitioners, please note an appeal to
the Baltimore County Board of Appeals regarding the above-referenced
denial of Petition for Special Exception. We're enclosing a check
in the amount of \$115.00 payable to Baltimore County, Maryland
regarding the fee for filing the appeal.

Thank you for your assistance in this matter.

Very truly yours,
Stuart R. Berger
Stuart R. Berger

SRB/mp
Enclosure

RECEIVED
10-24-88 (OK - C)
ZONING OFFICE



RECEIVED ZONING OFFICE
DATE: 6/1/88
LIBERTY COMMUNITIES DEVELOPMENT CORPORATION, INC.
3820 Fernside Road • Randallstown, MD 21133 • (301) 655-7766

Liberty Communities Development Corporation (LCDC)

RESOLVED: That the position of the Liberty Communities
Development Corporation as adopted by the Executive Committee on
June 6, 1988 on the zoning matter known as:

Case Number 88-487-X for a Special Exception for one illuminated
12' x 25' advertising sign at 7028 Liberty Road

is that: "The Liberty Communities Development Corporation oppose
this petition." Further, "The staff (Jim Janas) receive authority,
sanction and instructions to testify on behalf of the organiza-
tion on the zoning request."

AS WITNESS OUR HANDS AND SEAL THIS 9 DAY OF June 1988.

ATTEST: Liberty Communities Development Corporation

Joseph Spivey
Secretary
Joseph Spivey
President

Lochearn Improvement Association

July 5, 1988

RE: Case 88-487-A # 340
7028 Liberty Road

To whom it may concern,

The community of Lochearn is concerned about
potential visual pollution resulting from the sign
by the above petitioner for a special exception. A sign
12' x 25', illuminated, will be a distraction, obstruct
vision and is unnecessary. The building at 7028 Liberty
is a sign in itself being covered front side with
lettering & signs and exceeding acceptable signage footage.
Let me take this opportunity to inform the Zoning
Office, Commissioner, and Enforcement personnel to
inspect this site and to deny any request for signage
at this location. The practitioners by signage
should act in the zoning regulations and not be con-
sidered in this case by a special exception.

Thank you for your consideration
of the feelings of the people who must live with
your decisions.

Sincerely,
Judith Buser
Zoning Chairperson

JUL 6 1988
ZONING OFFICE

7/12/88

* Review conversation with
Mr. Berger
Re: 7028 Liberty Rd.

An inspection was conducted at the above
referenced property in response to Mrs. Berger's
complaint. Several signs were observed, many
signs appeared to be very old. Wall signs were
noted, they consisted of typical paper signs
commonly placed in the windows of liquor
stores. Also, a martini glass mural was
located on the scene south side wall. One freestanding
was observed, the sign appeared to be extremely old
and was in a state of
disrepair.

I spoke to Judith Berger on 7/13/88 and
informed her that all signage will be
considered at the time of the hearing and
if the existing signage is not accurately
represented, in my opinion this would
impact the the Commission's decision.

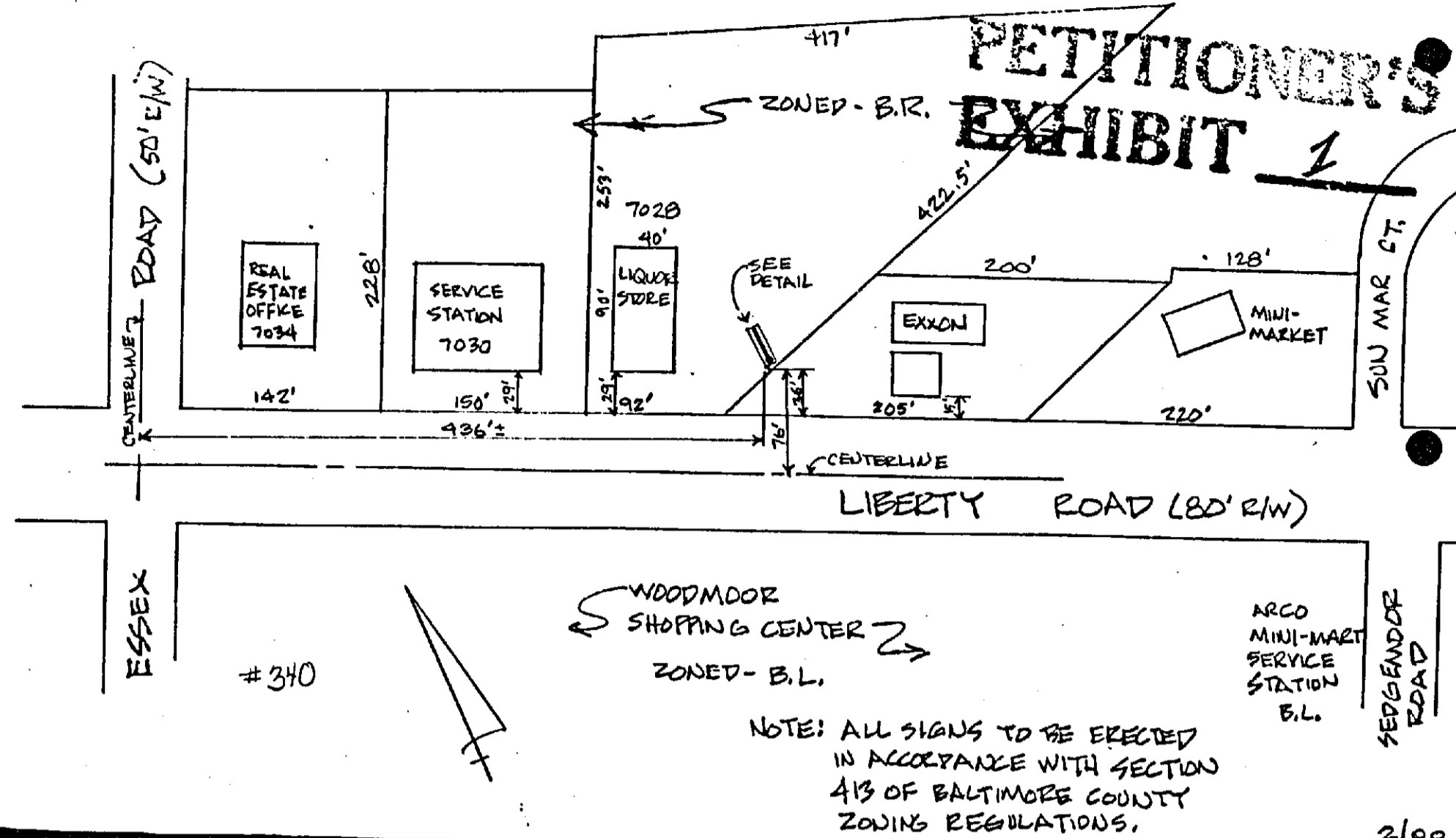
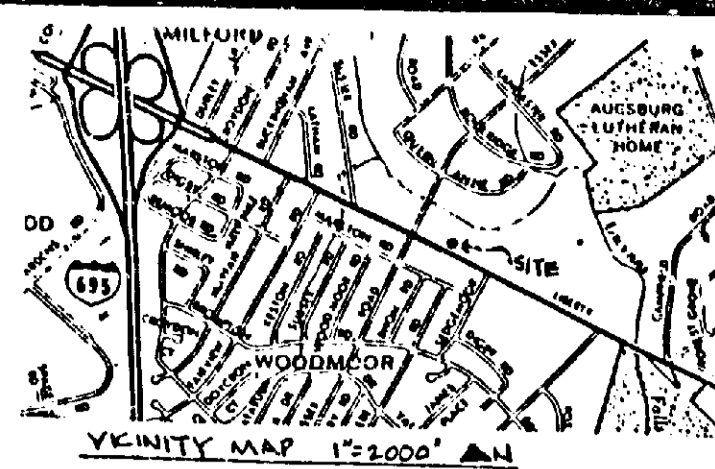
* I spoke to Stuart Berger, Esquire who represents
the petitioner in case A 88-487-A and informed
him that a more detailed description of the
proposed sign would have to be depicted. In addition,

R. K. in
SPECIAL EXCEPTION

7028 LIBERTY ROAD

PROPOSED - 1 SINGLE-FACED ADVERTISING
STRUCTURE (12'x25')
ZONED - B.R. 67,717 Sq. Ft. ±
DISTRICT - 2nd
SCALE - 1"=100'
Existing Utilities
in Liberty Rd.

DETAIL - 1"=40'



NOTE: ALL SIGNS TO BE ERECTED
IN ACCORDANCE WITH SECTION
413 OF BALTIMORE COUNTY
ZONING REGULATIONS.

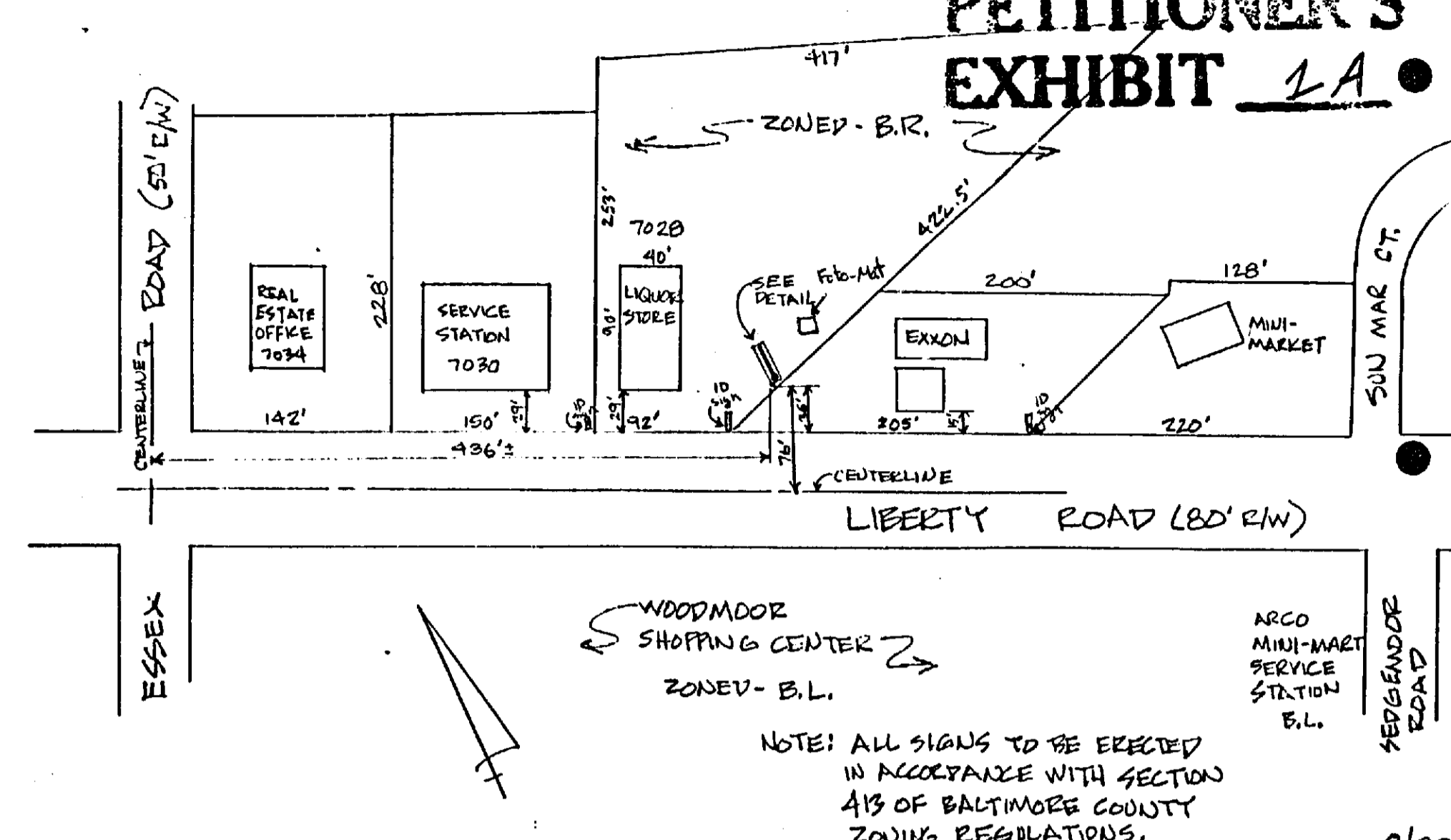
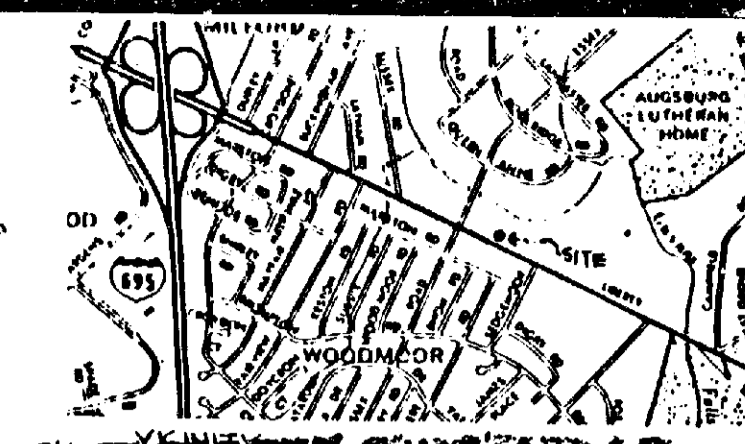
2/2a

SPECIAL EXCEPTION

7028 LIBERTY ROAD

PROPOSED - 1 SINGLE-FACED ADVERTISING
STRUCTURE (12'x25')
ZONED - B.R.
DISTRICT - 2nd
SCALE - 1"=100'

DETAIL - 1"=40'



NOTE: ALL SIGNS TO BE ERECTED
IN ACCORDANCE WITH SECTION
413 OF BALTIMORE COUNTY
ZONING REGULATIONS.

2/2a

METROMEDIA, INC.
Plaintiff
v
BALTIMORE COUNTY, MARYLAND
et al
Defendants

THE CIRCUIT COURT
FOR BALTIMORE COUNTY
EQUITY NO. 103167

PETITIONER'S
EXHIBIT 3

MEMORANDUM OPINION

In 1955 the County published a mimeographed version of Section 413 of the Baltimore County Zoning Regulations which purported to be in conformity with certain regulations adopted by the County Commissioners of Baltimore County on March 30, 1955. In 1957, and in 1963, the County republished this same version in the "Black" and "Blue" books respectively. For the next fourteen years the County treated these three published versions of Section 413 as the established rule, by adhering to the regulation, insisting that others follow its dictates, and representing to the Courts that this version of Section 413 was the law to be applied to all cases coming within its ambit.

In 1969, without notice or hearing, the County published yet another looseleaf volume of zoning regulations, the Red Book, which substantially altered Section 413 as it appeared in the previously promulgated versions. In 1975, the County published a gold looseleaf edition of the regulations (the Gold book). In this edition, Section 413 followed the Red book but was inconsistent with the Black and Blue books. The County explains the inconsistency as follows: While searching County archives, some county employee found, secreted away in a vault, the original version (the "Soft Book") of the 1955 zoning regulations which differed substantially from the three versions which the County had disseminated. Thereupon the County promulgated a new version of Section 413 in the Red and Gold Books without notice or

SIGNS

frontage between streets, on that side of the street on which the sign is proposed to be located, is improved with dwelling uses.

f. In any B. L., B. M., B. R. Zones, all outdoor advertising signs on vacant land shall be located not less than 500 feet apart; all such signs placed on improved commercial properties shall be spaced not less than 100 feet apart. The 100 foot spacing shall govern when improved and unimproved commercial properties are contiguous. Two signs placed approximately at right angles to the street right-of-way, either back to back or end to end, are permitted. Provisions as to spacing and location of signs shall apply separately to each side of a street.

g. In any M. L. or M. H. Zone, signs shall be placed at least 1,000 feet apart on the same side of the street or highway except that 2 signs may be paired, approximately back to back, totalling 4 signs on one structure, when located approximately at right angles to the right-of-way line.

h. No outdoor advertising sign erected on a roof may extend more than 16 feet above any part of the roof or parapet, except that the 16 foot limitation shall not apply to any such roof sign existing as of the date of adoption of these regulations.

i. No existing outdoor advertising sign that does not comply with conditions and standards contained in this Section 413.3 shall be permitted to remain on any premises beyond the expiration date of any Special Permit by the authority of which it was erected, or if erected prior to January 2, 1945, two years after the effective date of adoption.

SIGNS

zoned Commercial from the corner to a point opposite any portion of such sign.

f. Other business signs (not exceeding three on any premises) may be used if limited to a total area of 100 square feet in Business Zones, and 200 square feet in M. L. and M. H. Zones.

g. Multiple face sign shall be considered as one sign.

413.3 Outdoor advertising signs as defined in Section 101 are allowed only in B. L., B. M., B. R., M. L., and M. H. Zones as Special Exceptions, under the following conditions, as limited by Section 413.5:

a. The total surface area of any such sign, exclusive of structural supports, and trim shall not exceed 300 square feet, except that a hand-painted custom-built sign may have a total surface area of not exceeding 500 square feet. The provisions of this sub-paragraph referring to hand-painted custom-built signs shall permit only one single face unit.

b. No such sign shall be permitted to front on, face or be located within 250 feet of the right-of-way of any expressway or other controlled-access-type highway.

c. No such sign shall be located closer to the street right-of-way line than the minimum front yard requirement for a commercial building as determined by these Regulations for the zone involved.

d. No such sign shall be located on unimproved land within 100 feet of any street intersection involving a dual highway, or within 50 feet of any other intersection.

e. No outdoor advertising sign shall be erected in any B. L., B. M., or B. R. Zones if at least 50% of the available

PETITIONER'S
EXHIBIT 2

PETITIONER(S) EXHIBIT (4)

